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EXAMINER

RINES, ROBERT D

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

02/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/601,118	Applicant(s) ROBERTSON ET AL.	
	Examiner DAVID D. RINES	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-39 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-39 and 44-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

[1] This communication is in response to the amendment filed 24 July 2007. It is noted that this application is a continuation-in-part (CIP) of United States Patent Application #09/452,126 filed 1 December 1999. The Information Disclosure Statement (IDS) filed 24 July 2007 has been entered and considered. Claims 1-36 and 40-43 have been cancelled. Claims 37-39 have been amended. Claims 44-47 have been added. Claims 37-39 and 44-47 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

[2] Claims 37-39 and 44-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 37 as presently amended recites step a. "providing to said prospective insured a set of four or more questions that tap into personality traits that may affect accident involvement and

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reporting;" Similarly, step d of presently amended claim 37 recites step d. "composing a survey of 50 or more questions that tap into personality traits that may affect accident involvement and reporting;" Initially, it is unclear what the phrase "tap into" means in the context of the claimed invention. For purposes of applying art, Examiner assumes this phrase to indicate that the questions are directed to determining a risk group and/or the responses to such questions are representative of the risk level associated with that individual. However, clarification is requested.

Second, each of the two steps noted above indicate that the questions and assessed personality traits "may affect accident involvement and reporting;" The recited terminology "may affect" indicates that the traits also "may not affect" accident reporting and involvement. Either the traits are statistically linked to the reporting and involvement of accidents or they are not linked to the reporting and involvement of accidents. As the subsequent steps of the method required a correlation between the questions/personality traits and the reporting and involvement of accidents, the phrase "may affect" renders the claim indefinite.

Lastly, claim 37 as presently amended recites step g. "analyzing said information to select said set of four or more questions....number of automobile insurance claims reported by said sample population when said conventional classification information is controlled for, said increase in the multiple correlation being significant to at least the 5% level." The phrase "..at least the 5% level" lacks antecedent basis. Additionally, it is unclear what the phrase at least the 5% level means. Is there a 5% correlation between the questions and reporting? Do the questions apply to

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at least 5% of the population? As presently recited, the claim is indefinite with regard to the meaning of the 5% level.

NOTE: Examiner assumes the recited step g. is presented to clarify the method of deriving statistically relevant questions and determining personality traits that have been shown to be predictive of accident reporting and involvement. Further, Examiner notes that clarification of step g., could serve to help clarify the preceding steps that Examiner has indicated as indefinite.

Claims 38-39 and 44-47, by virtue of their dependence on claim 37, and when analyzed in the same manner described with respect to claim 37, also fail to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Therefore, claims 38-39 and 44-47 are rejected under 35 U.S.C. 112 as well.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[3] Claims 37-39 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haner (Charles F. Haner, *A Prediction of Automobile Claims by Psychological Methods*, The Journal of Risk and Insurance, vol. 35, no. 1 (Mar. 1968), pp. 49-59) in view of Lajunen (Timo Lajunen & Heikki Summala, *Drive Experience, Personality, and Skill and Safety-Motive Dimensions in Drivers' Self-Assessments*, Person Individ, Diff. Vol. 19, No.3 (1995), pp. 307-318) and DeTor et al. (United States Patent #4,975,840).

Claims 1-36 have been cancelled.

As per (currently amended) claim 37, Haner discloses a method for risk classification of a prospective insured, said prospective insured applying for automobile insurance, said prospective insured belonging to a demographic group (Haner; page 49, Abstract, paragraphs 1-3 and 7), said method comprising: a. providing to said prospective insured a set of questions that tap into personality traits that may affect accident involvement and reporting (Haner; page 50, paragraph

4); b. obtaining a set of responses to said set questions from said prospective insured (Haner; page 50, paragraphs 4-5); c. classifying said prospective insured into a risk class based at least in part on said set of responses (Haner; page 49, paragraph 3, page 50, paragraphs 5-7, and page 51, table 1).

Haner further discloses assembly of survey information including f. collecting information from said sample population, said information comprising; i. response to said survey (Haner; page 50, paragraphs 4-8); ii. the number of automobile insurance claims reported by each of said persons in said sample population (haner; page 51, paragraph 1-3 and Table 1); and iii. conventional classification information for automobile insurance underwriting, said conventional classification information comprising; 1. age ; 2. marital status (Haner; Abstract and page 49, paragraph 1).

As noted above, Haner disclose a personal inventory (i.e., questions/response) directed to the determination of the attitude and personality of the prospective insured (Haner; page 49, paragraphs 5-7 and page 50, paragraphs 1-3), and Haner further discloses well known conventional classification factors including age and marital status (Haner; Abstract and page 49, paragraph 1), Haner fails to disclose the distillation of four or more representative questions from a broad survey of 200 or more individuals. Haner further fails to disclose derivation of four or more questions derived from 50 or more questions administered in the survey.

However, Lajunen discloses providing a questionnaire, wherein a person gives self-assessed skill estimates and safety motives and are asked to assess their own abilities and personality (Lajunen; page 308, paragraphs 1-2 and 5, page 309, paragraphs 1-2).

Lajunen further discloses a technique wherein said set of four or more questions have been devised by a survey method comprising the steps of: e. providing said survey to a sample population of 200 or more people (Lajunen; page 307, paragraph 2); Lajunen further discloses back ground variables (i.e., conventional factors) including 3. years of driving experience; 4. number of miles driven per year (Lajunen; page 309, paragraph 8 and page 314, paragraph 1-2);

Regarding step d. composing a survey of 50 or more questions that tap into personality traits that may affect accident involvement and reporting; Lajunen discloses multiple surveys and tested personality traits and specifically mentions deriving questions from multiple studies including 13/5 choice items from *The Driver Skill Inventory*, 20 items from Hatakka et al., and 9 additional measures from Naatanen-Summala (Lajunen; page 308, paragraphs 10-11 and page 309, paragraph 1).

As to step g., Under Examiner's best interpretation of the recited claim language (see 35 U.S.C. 112, second paragraph, rejection above), Lajunen's correlation method reads on step g. analyzing said information to select said set of four or more questions from among said survey questions such that the survey responses by said sample population to said set of four or more questions significantly increase the multiple correlation to said number of automobile insurance claims

reported by said sample population when said conventional classification information is controlled for, said increase in the multiple correlation being significant to at least the 5% level (Lajunen; page 309 paragraphs 2-8, page 310 1-4 and Tables 1-4).

NOTE: Lajunen describes extensive analysis of the self-assessments directed to determining those motives and traits most contributory to the driving attributes of the surveyed individuals. Under the examiner's best interpretation of the present claim language directed to determining the four or more questions that are the most predictive or best correlated with accident involvement, Lajunen's correlations read on the statistical analysis performed by Applicant's step g. as presently amended.

At the time the invention was made, it would have been obvious to include the features of Lajunen within the method taught by Haner with the motivation of measuring skill and safety-motive dimensions in drivers self-assessment of the their driving abilities (Lajunen; Summary on page 307) and to properly predict insurance applicant accident susceptibility to accurately determine insurance premiums (Haner; page 49, paragraph 3).

Haner and Lajunen fail to disclose whether the classification is performed "automatically".

However, as is evidenced by DeTore, automatic risk classificaiton for a particular applicant based on data collected including informaiton which may have a bearing on insurability, wherein the classification is performed by an expert module without input from the underwriter (i.e.,

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automatically) (DeTore; col. 5, lines 19-68, col. 10, lines 43-54, col. 14, lines 50 to col. 15, lines 18), is well known in the insurance underwriting art.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the features of DeTore within the method taught collectively by Haner and Lajunen with the motivation of providing an automated system for assessing risk without the aid or intervention of underwriters, thus improving efficiency, quality, and consistency of decisions (DeTore; col. 6, lines 3-10).

As per (currently amended) claim 38, Lajunen discloses a method wherein said set of four or more questions comprises not more than ten questions (Lajunen; page 308, paragraphs 10-11 and page 309, paragraph 1).

As per (currently amended) claim 39, Lajunen discloses a method wherein said set of four or more questions comprises not more than four questions (Lajunen; page 308, paragraphs 10-11 and page 309, paragraph 1).

NOTE: Regarding currently amended claims 38 and 39, Lajunen provides instances of multiple surveys employing 4-20 survey items (i.e., questions) (see claim 37 analysis). Examiner submits that the specific number of questions constitutes a design choice as evidenced by the different statistical measures provided in the Lajunen disclosure.

Claims 40-43 have been cancelled.

As per (newly added) claim 44, Haner discloses a method wherein said method further comprises the steps of: b. obtaining a set of responses to said second set of questions (Haner; page 50, paragraphs 4-5); and c. in said step of classifying said prospective insured into a risk class based at least in part on said set of responses to said four or more questions, also basing said classification of said prospective insured at least in part on and said set of responses to said second questions (Haner; page 49, paragraph 3, page 50, paragraphs 5-7, and page 51, table 1).

While Haner discloses known background elements (i.e., second questions) including age and marital status, Haner fails to indicate background elements (i.e., second questions) including mileage and driving experience.

However, Lajunen discloses step a. providing to said prospective insured a second set of questions related to one or more of said prospective insured age, gender, annual mileage or driving experience (Lajunen; page 309, paragraph 8 and page 310, paragraphs 1-2).

Haner and Lajunen fail to disclose whether the classification is performed "automatically".

However, as is evidenced by DeTore, automatic risk classificaiton for a particular applicant based on data collected including informaiton which may have a bearing on insurability, wherein the classification is performed by an expert module without input from the underwriter (i.e.,

automatically) (DeTore; col. 5, lines 19-68, col. 10, lines 43-54, col. 14, lines 50 to col. 15, lines 18), is well known in the insurance underwriting art.

As per (newly added) claim 45, Lajunen discloses a method wherein said personality traits comprise: a. impulsivity; b. locus of control; c. self-esteem; d. invulnerability; e. hostility; f. anger; g. trust; h. social desirability; and i. thoroughness in decision making (Lajunen; page 309, paragraphs 2-8 and page 310, paragraphs 1-2, and TABLE 1) NOTE: While Lajunen specifically discloses a number of the personality traits claimed by Applicant, Examiner considers the specific questions and personality traits measure to constitute non-functional data elements as the specific questions or traits measured does not functionally contribute to the determination of relevant personality traits and categorization of individuals into risk classifications).

As per (newly added) claim 46, Lajunen discloses a method wherein at least one of said survey questions is a personal statement with which a person is asked to indicated agreement or disagreement (Lajunen; page 310, paragraphs 1-2).

As per (newly added) claim 47, Lajunen discloses a method wherein at least one of said personal statements is based on at least one or the statements: a. "I don't find it particularly difficult to get along with loud mouthed, obnoxious people."; b. "In comparison to others my age, I have less than average chance of having a heart attack."; c. "I usually think carefully before doing anything."; and d. "In comparison to other my age, I have less than average chance of being fired from a job." (Lajunen; page 309, paragraphs 2-8 and page 310, paragraphs 1-2, and TABLE 1)

NOTE: While Lajunen specifically discloses exemplary questions, Examiner considers the specific questions and personality traits measure to constitute non-functional data elements as the specific questions or traits measured does not functionally contribute to the determination of relevant personality traits and categorization of individuals into risk classifications).

Regarding claims 38-39 and 44-47, the obviousness and motivation to combine as discussed with regard to claim 37 above are applicable to claims 38-39 and 44-47 and are herein incorporated by reference.

Response to Remarks/Amendment

Applicant's remarks filed 24 July 2007 have been fully considered but they are not persuasive and are deemed to have been addressed in the preceding sections of the present Office Action and in the previous Office Action, mailed 3 May 2007, incorporated by reference herein.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 24 July 2007 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Haner, Lajunen, and DeTore et al., based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action (mailed 3 May 2007), and incorporated herein.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID D. RINES whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDR-1-31-08

/C. Luke Gilligan/
Primary Examiner, Art Unit 3626